

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TIFFANY MINOTT,

Plaintiff,

-against-

GOOGLE LLC,

Defendant.

24-CV-01674 (MMG)

ORDER

MARGARET M. GARNETT, United States District Judge:


On November 27, 2024, Plaintiff's counsel filed a motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure asking this Court to vacate its previous Opinion and Order at Dkt. No. 40 awarding a charging lien to Plaintiff's former counsel. *See* Dkt. No. 46. Previously, on August 16, 2024, Plaintiff filed a notice of appeal of the Court's Opinion and Order, *see* Dkt. No. 41, and the appeal is pending before the Second Circuit.

The filing of a notice of appeal ordinarily divests a district court of jurisdiction over the issues presented in the appeal. Rule 62.1 of the Federal Rules of Civil Procedure sets out three options that a district court may take when timely motions are made that the court lacks authority to grant because of a pending appeal: "(1) defer considering the motion; (2) deny the motion; or (3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue." FED. R. CIV. P. 62.1. Courts have found that Rule 62.1 is generally not intended to be used to ask a district court to issue an indicative ruling reconsidering the same question that is pending before the court of appeals. *See Retirement Bd. of Policemen's Annuity & Benefit Fund of the City of Chicago v. Bank of New York Mellon*, 297 F.R.D. 218 (S.D.N.Y. 2013).

By **December 13, 2024**, Plaintiff's counsel is directed to file a letter not to exceed four pages explaining whether there is a basis to believe the Court has jurisdiction over this motion notwithstanding the pending appeal, or, if the motion falls within Rule 62.1, whether the Court should defer ruling on the motion, deny the motion without prejudice to renewal after jurisdiction is returned to this Court, or issue an indicative ruling pursuant to Rule 62.1(a)(3). The Washington Law Firm PLLC shall file any opposition brief by **December 20, 2024**, and its brief shall also address these issues. Plaintiff may file any reply by **January 2, 2025**.

Dated: December 6, 2024
New York, New York

SO ORDERED.


MARGARET M. GARNETT
United States District Judge